

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**BARBARA A. DAVIS,**  
**Petitioner,**

**v.**

**W. ELAINE CHAPMAN, Warden,**  
**FMC-Carswell,**  
**Respondent.**

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**Civil Action No. 4:08-CV-518-Y**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**  
**AND NOTICE AND ORDER**

This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. §636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The Findings, Conclusions, and Recommendation of the United States Magistrate Judge are as follows:

**I. FINDINGS AND CONCLUSIONS**

**A. NATURE OF THE CASE**

This is a petition for writ of habeas corpus by a federal prisoner pursuant to 28 U.S.C. § 2241.

**B. PARTIES**

Petitioner Barbara A. Davis, Reg. No. 36240-177, was a federal prisoner incarcerated in FMC-Carswell in Fort Worth, Texas, at the time of the filing of this petition.

The Respondent is W. Elaine Chapman, Warden of the FMC-Carswell.

### **C. PROCEDURAL HISTORY**

By this action, Davis sought release on bail pending appeal of her federal criminal conviction for financial aid fraud and access device fraud in the Dallas Division in cause number 3:07-CR-090. The judgment of conviction was affirmed by the Fifth Circuit Court of Appeals on October 7, 2008. Moreover, Bureau of Prisons records indicate that Davis was released from FMC-Carswell on January 8, 2009. As of this date, Davis has not notified this Court of her current whereabouts.

### **D. DISCUSSION**

Because Davis has been released from confinement, this court can no longer provide her with the relief she seeks. *See Bailey v. Southerland*, 821 F.2d 277, 278-79 (5<sup>th</sup> Cir. 1987). Dismissal of this petition is therefore appropriate as moot. *See McRae v. Hogan*, 576 F.2d 615, 616-17 (5<sup>th</sup> Cir. 1978).

## **II. RECOMMENDATION**

It is recommended that the government's motion to dismiss be GRANTED and that Davis's petition for writ of habeas corpus be DISMISSED as moot.

## **III. NOTICE OF RIGHT TO OBJECT TO PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within ten (10) days after the party has been served with a copy of this document. The court is extending the deadline within which to file specific written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until March 4, 2009. The United States District Judge need only make a *de*

*novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(B)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual finding or legal conclusion accepted by the United States District Judge. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5<sup>th</sup> Cir. 1996) (en banc op. on reh'g); *Carter v. Collins*, 918 F.2d 1198, 1203 (5<sup>th</sup> Cir. 1990).

#### **IV. ORDER**

Under 28 U.S.C. § 636, it is ORDERED that each party is granted until March 4, 2009, to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation. It is further ORDERED that if objections are filed and the opposing party chooses to file a response, a response shall be filed within seven (7) days of the filing date of the objections.

It is further ORDERED that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions, and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED February 11, 2009.

/s/ Charles Bleil  
CHARLES BLEIL  
UNITED STATES MAGISTRATE JUDGE